

Message Text

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TO AMEMBASSY LIBREVILLE

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TAGS: EFIN

SUBJECT: U.S. TAX LAW ON ACTIVITIES IN GABON

REF: LIBREVILLE 0931

1. THE PROBLEM OF MESHING FOREIGN INCORPORATION REQUIREMENTS AND U.S. TAX WRITEOFFS ARISES IN THE CASE OF U.S. MINERALS COMPANIES BUT WOULD NOT AFFECT OTHERS SUCH AS TAMS. THE DEDUCTION FOR PERCENTAGE DEPLETION OF MINERALS AND THE CURRENT WRITE-OFF OF INTANGIBLE DRILLING EXPENSES MAY BE CLAIMED ON BOTH FOREIGN AND DOMESTIC ACTIVITY BUT ONLY BY U.S. CORPORATIONS (HOWEVER, SEE 3 BELOW). TO TAKE ADVANTAGE OF THESE DEDUCTIONS U.S. PETROLEUM COMPANIES TYPICALLY CHOOSE TO OPERATE ABROAD THROUGH A U.S. CORPORATION RATHER THAN A LOCALLY-INCORPORATED SUBSIDIARY.

2. SOME COUNTRIES WHICH HAVE A STATE PETROLEUM AGENCY PERMIT FOREIGN PETROLEUM CORPORATIONS TO OPERATE THERE AS SUCH UNDER CONTRACT WITH THE STATE AGENCY (E.G. INDONESIA). OTHERS REQUIRE LOCAL INCORPORATION AND MAY OR MAY NOT

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EXCEPT U.S. CORPORATIONS FROM THAT REQUIREMENT (NORWAY

MAKES SUCH AN EXCEPTION).

3. THE TAX ADVANTAGES OF USING A U.S. CORPORATION FOR FOREIGN PETROLEUM ACTIVITIES MAY WELL BE ON THE WAY OUT, HOWEVER. THE WAYS AND MEANS COMMITTEE OF THE HOUSE REPORTED OUT ON MAY 4, 1974 AN "OIL AND GAS ENERGY TAX BILL" (H.R. 14462) WHICH WOULD, AMONG OTHER MEASURES, REPEAL PERCENTAGE DEPLETION ON FOREIGN OIL AND GAS INCOME, EFFECTIVE IN 1974, AND REDUCE THE BENEFITS OF THE FOREIGN INTANGIBLE DRILLING AND DEVELOPMENT EXPENSE DEDUCTION BY REQUIRING THE OVERALL METHOD OF COMPUTING THE FOREIGN TAX CREDIT, EFFECTIVE IN 1975.

4. WITH RESPECT TO INDIVIDUALS, UNDER U.S. TAX LAW ALIEN EMPLOYEES WORKING IN THE UNITED STATES FOR A FOREIGN EMPLOYER ARE EXEMPT FROM U.S. INCOME TAX ONLY IF THEY REMAIN IN THE UNITED STATES LESS THAN 90 DAYS OF THE YEAR AND EARN NO MORE THAN DOLS 3,000 FOR THEIR U.S. SERVICES. THIS EXEMPTION IS TYPICALLY EXTENDED ON A RECIPROCAL BASIS IN INCOME TAX TREATIES TO A SIX MONTH PERIOD WITH NO DOLLAR LIMIT, FOR EMPLOYEES OF FOREIGN FIRMS WHOSE SALARIES ARE NOT BORNE BY A LOCAL OFFICE.

5. A U.S. RESIDENT WHO IS EMPLOYED ABROAD AND SUBJECT TO FOREIGN INCOME TAX MAY CLAIM A CREDIT AGAINST U.S. TAX FOR THE FOREIGN TAX PAID ON THE INCOME FOR FOREIGN SERVICES. AT PRESENT U.S. CITIZENS EMPLOYED IN FOREIGN COUNTRIES ARE EXEMPT FROM U.S. TAX ON THE FIRST DOLS 20,000 OR DOLS 25,000 OF FOREIGN EARNED INCOME, IF THEY REMAIN OUTSIDE THE UNITED STATES 17 OUT OF 18 MONTHS OR BECOME FOREIGN RESIDENTS WITH AN INTENTION TO REMAIN SO. HOWEVER, THE WAYS AND MEANS COMMITTEE IS NOW DRAFTING ANOTHER BILL IN WHICH IT HAS TENTATIVELY DECIDED TO PROVIDE FOR REPEAL OF THE FOREIGN EARNED INCOME EXCLUSION FOR CITIZENS EMPLOYED OVERSEAS.
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